



AGENDA
RIO DELL PLANNING COMMISSION
REGULAR MEETING
TUESDAY, MARCH 26, 2019 – 6:30 P.M.
CITY HALL COUNCIL CHAMBERS
675 WILDWOOD AVENUE, RIO DELL

WELCOME.....*By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the Commission are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City Government welcomes your interest and hopes you will attend and participate in Rio Dell Planning Commission meetings often.*

- A. CALL TO ORDER
- B. ROLL CALL
- C. PLEDGE OF ALLEGIANCE
- D. CEREMONIAL MATTERS
- E. CONSENT CALENDAR

- 1) 2019/0326.01 - Approve Minutes of the February 26, 2019 Regular Meeting
(ACTION)

1

F. PUBLIC PRESENTATIONS

This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. As such, a dialogue with the Commission or staff is not intended. Items requiring Commission action not listed on this agenda may be placed on the next regular agenda for consideration if the Commission directs, unless a finding is made by at least 2/3rds of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action. Please limit comments to a maximum of 3 minutes.

G. SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

- 1) 2019/0326.02 - Approve Resolution No. PC-139-2019 approving, denying or modifying Studebaker Conditions of Approval of the Cannabis Activity Conditional Use Permit – Case No. CUP-17-03-M-2
(ACTION)

13

- 2) 2019/0326.03 - Discussion of Housing Element regarding Sixth Cycle Housing Element requirements, Housing Law, Regional Housing Needs Allocation (RHNA), Housing Constraints, Site Inventory and Housing Policies **(DISCUSSION)**

24

H. STAFF COMMUNICATIONS

I. ADJOURNMENT



In compliance with the American with Disabilities Act (ADA), if you need Special assistance to participate in this meeting, please contact the Office of the City Clerk at (707) 764-3532. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

***The next Regular Planning Commission meeting is scheduled for
Tuesday, April 23, 2019 at 6:30 p.m.***

**RIO DELL PLANNING COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 26, 2019**

CALL TO ORDER

Commissioner Angeloff called the regular meeting of the Rio Dell Planning Commission to order at 6:45 P.M.

Present were Commissioners Angeloff, Kemp, Millington and Planning Commission Alternate Arsenault. Absent were Commissioners Marks and Strahan.

Others present were Community Development Director Caldwell and City Clerk Dunham.

CONSENT CALENDAR

Approve Minutes of the January 22, 2019 Regular Meeting

Community Development Director Caldwell noted that Commissioner Marks raised concern regarding the Conditions of Approval for the Danco Project. She wanted to make sure the minutes reflected the Commission's action to include a condition that onsite services are only provided to residents of the facility. He clarified that the minutes did reflect that action.

Motion was made by Kemp/Arsenault to approve the minutes of the January 22, 2019 regular meeting as presented. Motion carried 4-0.

PUBLIC PRESENTATIONS

None

SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

Community Development Director Caldwell announced a change in the order of the agenda and said the Pre-zoning item would be presented first.

Resolution No. PC-138-2019 - Pre-zoning of the City's Wastewater Disposal Site at Metropolitan Road (APN 205-111-039)

Community Development Director Caldwell provided a staff report and said in 2012/2013 when the City upgraded the wastewater treatment plant; it included the purchase of property located adjacent to the city limits in the Metropolitan Road area for a wastewater disposal field. He explained that the City pays approximately

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 2**

\$2,500 a year in property taxes and with the parcel annexed into the City, the parcel would be exempt from property taxes. He said the first step in the annexation process is to pre-zone the area to be annexed to the Public Facility (PF) zoning designation.

He further stated that in response to the City's referral, LAFCo staff recommended expanding the annexation area to include the adjacent portions of the Highway 101 right-of-way (Cal-Trans property) to make the parcels contiguous.

Commissioner Angeloff opened the public hearing to receive public comment on the proposed resolution recommending pre-zoning of the City's Wastewater Disposal Field and intervening areas in anticipation of annexing the area into the City.

There being no public comment received, the public hearing closed.

Commissioner Millington asked if the Public Facility (PF) designation is the most liberal zoning for that parcel.

Community Development Director Caldwell indicated that PF zoning is not the most liberal zoning but the California Regional Water Quality Control Board would not allow other uses except for public uses at that location.

Commissioner Millington asked if the expanded annexation area would be zoned the same.

Community Development Director Caldwell explained that the expanded area is the Cal-Trans parcel just north of the bridge and would also be zoned PF.

Commissioner Angeloff called for public comment on the proposed resolution. There was no public comment received.

Motion was made by Kemp/Arsenault to adopt Resolution No. 138-2019 recommending that the City Council pre-zone the City's Wastewater Disposal Field; APN 205-111-039 and intervening areas in anticipation of annexing the area into the City. Motion carried 4-0.

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 3**

Possible Amendment to the City's Cannabis Regulations Related to Retail Sales, Testing Laboratories, Cultivation on Dinsmore Plateau, and Adult and Medical Annual Fees

Community Development Director Caldwell provided a staff report and said that Councilmember Woodall, at the January 3, 2019 City Council meeting requested staff agenzize a discussion regarding the City's cannabis regulations. Specifically, she wanted to include in the discussion (1) the City's cannabis tax rates; (2) dispensaries or retail sales of cannabis in the City proper; (3) testing laboratories in the City proper; (4) cultivation on the Dinsmore Plateau; and (5) the annual "A" and "M" \$4,000 annual fee.

The matter was brought back to the Council at their January 15, 2019 meeting for further discussion. The Council voted 3-1 directing staff to look into the possible amendments to the City's Cannabis Regulations as recommended. He explained that all of the issues, with the exception of the tax rates are land use issues and fall under the purview of the Planning Commission and as such require the Planning Commission to consider and make recommendations to the City Council.

Individual discussion was held on each of the proposed amendments beginning with Retail Sales.

Community Development Director Caldwell explained that retail sales of cannabis products are currently prohibited with the exception of specific medical cannabis products at Health and Wellness Centers, excluding the sale of flowers, trim, leaf or cannabis infused edibles. He said should the Commission agree to recommend that cannabis sales be allowed within the City proper, staff would recommend that retail sales only be allowed with a Conditional Use Permit and be limited to the Town Center (TC) zone.

He provided the Commission with two options to consider: (1) Have no limit on the number of Retailers and let the free market dictate the number of businesses; or (2) limit the number of Retailers and solicit Requests for Proposals (RFP's) and have the Planning Commission review and rank them based on the quality of the proposal. He noted that the ranking criteria could include, but not be limited to such things as experience, financial capital, interior and exterior design, and business model/plan of operation.

Discussion continued regarding Microbusinesses which allows an operator to

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 4**

engage in at least three (3) activities including retail sales, cultivation, manufacturing and distribution. He said that staff does not recommend allowing Microbusinesses within the City proper, at least until the Humboldt Rio Dell Business Park (HRDBP) is built out.

Community Development Director Caldwell referred to the State's Retail Regulations from the Bureau of Cannabis Control, submitted as Attachment 1. Related to hours of operation, staff suggested the hours be changed from 6:00 a.m. to 10:00 p.m. to 9:00 a.m. and 6:00 p.m.

He noted that all cannabis goods sold by a licensed retailer must be in compliance with the State's packaging requirements.

Commissioner Kemp commented that he didn't think there should be a limit on the number of retailers allowed in the City proper and said the tough ones would make it and that competition is good. He agreed with staff's recommendation to reduce the hours of operation and to limit retail sales to the Town Center (TC).

Community Development Director Caldwell said staff is recommending that any and all retail sales be subject to the Conditional Use Permit (CUP) process and asked for comments from the Commission regarding the RFP process.

Commissioner Kemp commented that he liked the idea of requiring the applicants to submit a business plan as part of the RFP process.

Community Development Director Caldwell pointed out that one of the advantages of going through the RFP process is that you get a better end product. He noted that many of the dispensaries resemble jewelry stores from the front lobby and the cannabis products are in a separate area out of view from the street. He added that the RFP could require how the business looks on the outside as well as the inside.

Commissioner Arsenault commented that if the businesses were kept clean and professional looking, they would be a positive addition to the downtown.

Commissioner Millington supported the RFP process and pointed out that it would preclude people who simply have lots of money and open a business and fail because they don't know what they are doing.

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 5**

Commissioner Arsenault asked if the State regulations were solidified.

Community Development Director Caldwell said the final regulations became effective in January although there may be some amendments through legislative law.

Commissioner Angeloff said that his understanding is that staff's recommendation to wait for buildout at the Humboldt Rio Dell Business Park was only in reference to microbusinesses. He commented that with regard to the RFP process for retail sales, he suggested there perhaps only be one (1) allowed in the Town Center. He pointed out that it was not fair to allow retail sales in the City proper and not at the Humboldt Rio Dell Business Park. He questioned what four (4) dispensaries in the Town Center (TC) would do to the fabric of the community.

Commissioner Arsenault commented that he understood that dispensary operators would be allowed to have multiple license types at the same location.

Community Development Director Caldwell reiterated that those are microbusinesses and are suggested they not be allowed in the City proper at least until build out of the Humboldt Rio Dell Business Park (HRDBP). He also noted that cannabis retail sales businesses couldn't have eating facilities in the same building; under State law, they must be separate.

A question was raised regarding consumption areas versus retail sales areas.

Community Development Director Caldwell said he would need to research the laws pertaining to that issue.

Commissioners concurred with allowing retail sales in the Town Center (TC) zone and at the Humboldt Rio Dell Business Park.

Commissioner Angeloff called for public comment regarding retail sales of cannabis.

Jackie Wilson said that she attended previous meeting when the Council was discussing regulations for medical marijuana and restricting it to the Humboldt Rio Dell Business Park. She thought that if retail sales are allowed in the Town Center (TC) they should be either at the North end of Wildwood or the South end but not in

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 6**

the center of town where the majority of the vacant commercial buildings are located.

Brian Hall suggested retail sales be expanded to other zones instead of just the Town Center (TC), provided they are appropriate locations away from residential areas.

Community Development Director Caldwell noted that restricting retail sales to the Town Center (TC) is not set in stone and that the reason staff made that recommendation is because of the vacant commercial buildings down town.

He asked for a consensus of the Commission regarding allowing retail sales of cannabis at the Humboldt Rio Dell Business Park (HRDBP).

Commissioner Arsenault expressed concern about creating an unfair advantage, business wise.

Community Development Director Caldwell explained that dispensaries located in the Town Center could relocate to the HRDBP if they wanted to have a cultivation license in conjunction with their retail license.

He then asked for a consensus of the Commission regarding whether the City should let the free market dictate the number retailers coming in, or whether there should be a limit on the number and solicit RFP's. He said the Planning Commission would have the ability as discretionary permits to approve or deny. He pointed out that all cannabis related businesses require going through the CUP process so the public is aware of what is being considered and has the ability to provide input.

Commissioner Angeloff asked if the regulations require dispensaries to be located within a certain distance from schools.

Community Development Director Caldwell explained that the State regulations do not establish distances from schools although the Planning Commission could establish local restrictions. He noted that the only distance restrictions are related to cultivation. In addition, a person must be 21 years old to enter a dispensary or 18 years old with a physician's prescription.

Commissioner Millington commented that she went to a dispensary but sat in the

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 7**

car and the only people she saw entering the dispensary were older people.

Commissioner Angeloff pointed out that the dispensaries would not be allowed to open until 9:00 a.m., which is after school starts. He indicated that he agrees with the RFP process, to amend the regulations to expand retail sales to the HRDBP, to limit the number of retailers to one (1) at first and to evaluate the applicants on a case-by-case basis through the RFP process.

He commented that his desire is to see a health and wellness center such as Green Buffalo Medical located on the Todd property adjacent to the freeway. He suggested they be provided some sort of exemption if they are operating in a true medical sense.

The consensus of the Commission was unanimous (4-0) on limiting retail sales to the Town Center (TC) and Humboldt Rio Dell Business Park (IC) zones, and to solicit Request for Proposal's (RFP's), and (3-1) on limiting the number of retailers.

Testing Laboratories

Community Development Director Caldwell explained that testing laboratories are currently restricted to the HRDBP. He noted that they are very similar to other types of testing labs that test water, soil or blood etc. He said that staff is recommending that testing labs be allowed in all commercial zones (TC, NC, CC) with a Conditional Use Permit which allows the Commission some discretion and gives the neighborhood the opportunity to comment. He noted that labs are heavily regulated by the State.

Commissioner Angeloff questioned the amount of cannabis that is allowed to be stored at laboratories.

Community Development Director Caldwell noted that the amount of cannabis would be minimal as once it is tested it is of no value so it is destroyed and removed.

Commissioner Angeloff called for public comment on testing laboratories. No public comment was received.

The Commission agreed with staff's recommendation to allow testing labs with a Conditional Use Permit (CUP) in the Town Center (TC), Neighborhood Center (NC)

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 8**

and Community Commercial (CC) zones, with no limit on the number of labs.

Adult and Medical Annual Fees

Community Development Director Caldwell reviewed the current fees and said operators are subject to \$8,000 in annual fees for each license type in addition to the City's taxes. He said the Council amended the Cannabis Regulations in February to allow adult "A" cannabis activities with the compromise that operators be required to pay both the "A" and "M" \$4,000 annual operating fee. He said that current operators as well as potential investors have expressed concern about having to pay both fees. He said that staff is recommending that the operators only be charged for one annual license per activity, or that the annual license fee be reduced from \$4,000 to \$2,000.

Commissioner Angeloff recommended reducing the annual license fee to \$2,000. The consensus of the Commission was 4-0.

Commissioner Angeloff called for public comment on the fees. No public comment was received.

Cultivation on Dinsmore Plateau

Community Development Director Caldwell stated that all, with the exception of one (1) property owner on the Dinsmore Plateau, have expressed an interest in commercial cannabis cultivation. He noted that there currently are several greenhouses on site and the idea is to bring any of those in violation into compliance. He said that James Cortazar, the owner of the majority of the land on Dinsmore Plateau has an interest in Hemp production and one of the concerns with that is the possibility of cross-pollination. He said at a tax rate of \$2.00 per square foot and 10 acres of hemp, the City would generate \$900,000 in taxes. Mr. Cortazar indicated that he would like to produce as much as possible.

He further explained that currently all outdoor cultivation is subject to provisions of the conditional use permit (CUP) process and must occur in greenhouses that are designed to eliminate odors. He noted that canopy size is based on parcel size whereas the County focuses on setbacks. Staff is recommending all outdoor cultivation remain in greenhouses subject to minimum setback requirements.

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 9**

Community Development Director Caldwell pointed out once again that all of the property owners on Dinsmore Plateau, with the exception of one have expressed interest in outdoor cultivation.

Commissioner Angeloff asked if anybody had expressed opposition to the proposed cultivation regulations.

Community Development Director said that staff was not aware of any opposition. He commented that the area of the Dinsmore Plateau is zoned Rural (R) with minimum 5-acre size parcels. He said the only other property owner that expressed interest in outdoor cultivation was a property owner on Blue Slide Road.

Commissioner Millington asked if there had been any interest in cannabis related Air B & B's.

Community Development Director Caldwell noted that Mr. Cortazar had expressed interest at one point.

Discussion continued regarding cultivation limits based on parcel size.

Community Development Director Caldwell said that he had met with the new owners of the Mozzetti property in Metropolitan and said outdoor cultivation is allowed but it is tied to parcel size so it would behoove the City to take away the canopy size limitations.

Commissioner Angeloff expressed concern regarding odor associated with large amounts of outdoor cultivation.

Community Development Director Caldwell pointed out that there has been some recent advancement in odor control and that he doesn't anticipate that being a problem. He said enforcement is complaint driven and should the City receive a complaint related to odor, the cultivator would be required as part of their CUP to put in additional scrubbers to reduce odor. He explained that setback requirements could be relaxed under exception provisions provided the neighbors be in agreement. He said staff recommends canopy size not be tied to parcel size but rather setbacks.

Commissioner Angeloff said he would like to add commercial hemp to the

RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 10

regulations.

Commissioner Kemp said that his only concern is the smell associated with open field cultivation but if everything is required to be in greenhouses then he has no problem.

Commissioner Angeloff called for public comment related to cultivation on Dinsmore Plateau.

Brian Hall pointed out that the only real smell is when plants are drying and that there is hardly any smell inside greenhouses. He said there is a little bit of noise associated with the fans running in the greenhouse to eliminate the odor so it comes down to noise versus odor.

Community Development Director Caldwell said that staff still recommends that the Planning Commission recommend to the City Council to restrict outdoor cultivation to greenhouses, and if someone comes up with a plan at a later date, it could be revisited at that time.

The Commission concurred.

Commissioner Angeloff commented that with this recommendation to the City Council, he would also like to recommend an increase in current staff to insure the cultivation activities are well-monitored.

Brian Hall commented that James Cortazar is not going to be willing to construct multiple greenhouses to grow hemp; he is going to want it to be grown in open fields. He added that if he is going to grow CBD hemp, it needs to be outdoors. In addition, if the City allows hemp to be grown outdoors, all cannabis cultivation needs to be allowed outdoors.

Commissioner Angeloff provided a recap of the recommended amendments related to Cultivation on Dinsmore Plateau and said that the Commission is recommending that cultivation be allowed on the Dinsmore Plateau with a Conditional Use Permit (CUP), the cultivation be restricted to greenhouses with the greenhouses subject to setbacks at least 30 feet from any property line in the Natural Resource (NR) and Rural (R) zones and 300 feet from any residences on an adjacent parcel and 1,000 feet from any school, allowing potential reduced setback requirements from the

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 11**

adjacent property lines provided there is written consent from the property owner, and that canopy sizes not be based on parcel size as consistent with State regulations.

The consensus of the Commission was 4-0 on the proposed amendments.

Community Development Director Caldwell suggested the Planning Commission also encourage the City Council to write a letter to the County of Humboldt Department of Agriculture related to regulations for producing hemp.

Discussion continued regarding the feasibility of allowing distribution businesses within the City proper.

Community Development Director Caldwell indicated that they could be allowed depending on the Plan of Operation and security measures.

Commissioner Angeloff commented that a Hardcar distributor spoke at the last Chamber of Commerce meeting and inquired about the possibility of the administrative portion of a distribution business being able to be established on this side of the river. He asked if that would be an acceptable option for them.

Community Development Director Caldwell noted that it is already allowed.

Commissioner Angeloff asked if it would be appropriate for the Commission to recommend to the City Council to consider distribution businesses on this side of the river, suggesting they be restricted to the Town Center (TC).

Community Development Director Caldwell noted that he would not limit them to the Town Center (TC) because they do not need a storefront but more of a warehouse. He suggested as a more appropriate fit, the Industrial Commercial (IC) and Community Commercial (CC) zones with a Conditional Use Permit (CUP).

Commissioner Arsenault suggested perhaps following the RFP process for distributors.

Community Development Director Caldwell noted that RFP's would not be necessary because the Planning Commission would have discretion through the CUP process.

**RIO DELL PLANNING COMMISSION
FEBRUARY 26, 2019 MINUTES
Page 12**

Motion was made by Kemp/Arsenault to adopt Resolution No. PC-137-2019 recommending that the City Council amends the Commercial Cannabis Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code relating to retail sales, testing laboratories, cultivation on the Dinsmore Plateau and annual fees as discussed. Motion carried 4-0.

STAFF COMMUNICATIONS

Community Development Director Caldwell reviewed potential agenda items for the next regular meeting scheduled for March 26, 2019 and said there may be a cannabis activity application to consider from the new owners of the Mozzetti property.

ADJOURNMENT

The meeting adjourned at 8:28 p.m. to the March 26, 2019 regular meeting.

Nick Angeloff, Chair

Attest:

Karen Dunham, City Clerk

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: March 26, 2019

☐ Consent Item; ☒ Public Hearing Item

To: Planning Commission

From: Kevin Caldwell, Community Development Director

Through: Kyle Knopp, City Manager

Date: March 19, 2019

Subject: Modification to the Studebaker Cannabis Activity Conditional Use Permit

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding the proposed modification to the Studebaker Conditional Use Permit to allow the applicant to retain the existing cyclone fencing surrounding the property; and
2. Open the public hearing, receive public input, close the public hearing and deliberate; and
3. Adopt Resolution No. PC 139-2019 either: 1) approving the request; 2) denying the request; or 3) approving a modified alternative.

Background

The Planning Commission approved the Studebaker Conditional Use Permit at your meeting of August 22, 2017. One of the conditions of approval required the installation of a wrought iron fence along the front property line parallel to Northwestern Avenue. The property line is adjacent to Northwestern Pacific's sixty-six (66) foot railroad right of way on the east side. In September of 2017 the owners made application to modify the conditions of approval to

replace the existing chain link fence on the west side of the right of way and Northwestern Avenue with the wrought iron fence. Staff supported the proposed relocation and your Commission approved the modification. The wrought iron fence was recently installed.

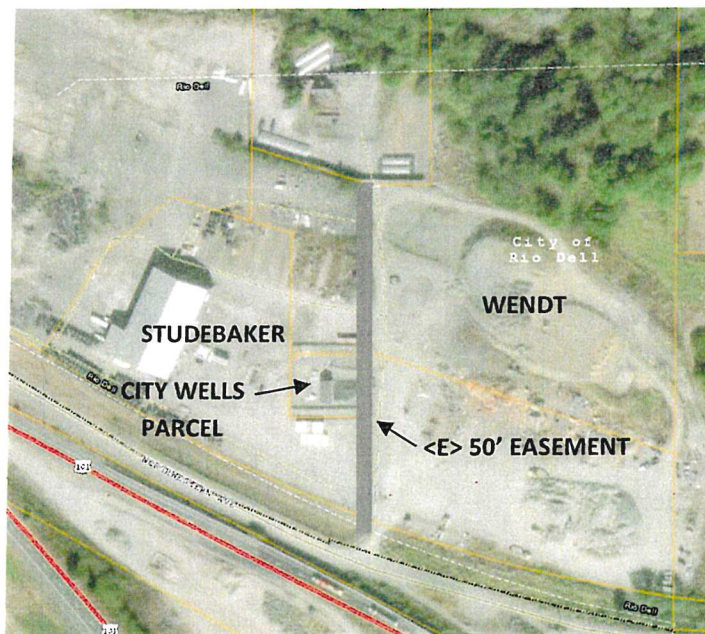
The applicant is now requesting that the existing chain link fencing surrounding the property not have to be removed and replaced with either black vinyl coated or wrought iron fencing. Below is a copy of the modified condition of approval.

*17. Security perimeter fencing shall be installed. The type of fencing shall be identified by the Planning Commission. The fence along the front of the parcel (parallel to Highway 101) shall be a black wrought iron fence. **All other perimeter fencing shall be black vinyl coated or wrought iron fencing.** The wrought iron fencing shall be located at the eastern edge of the Northwestern Avenue right of way.*

It should be noted that the Wendt Construction property east of the Studebaker parcel was conditioned as part of the GreenHeart Enterprises permit to require wrought iron fencing along the entire perimeter of the parcel. At that time, Tyler Roberts of GreenHeart Enterprises agreed to the condition. Mr. Roberts is no longer involved.

The City well property adjacent to the Studebaker is fenced with a six foot chain link fence with green privacy slats.

It was staff's original intent to have uniform appearance along Northwestern Avenue and the access easement up to the former Eel River Sawmill office. A portion of the Studebaker parcel fronts on the easement, just south of the City wells parcel. See below:



Staff recommends that the Planning Commission consider the following alternatives in considering the modification request.

1. Approve the applicant's request allowing the existing galvanized chain link fencing; or
2. Deny the applicant's request and require that the original conditions be implemented;
or
3. Require that the fence along the access easement be either black vinyl coated or wrought iron fencing.

Attachments:

Attachment 1: Exhibit A, September 26, 2017 Revised Conditions of Approval

Attachment 2: Resolution No. PC 139-2019.

EXHIBIT A

Conditions of Approval

Studebaker. Conditional Use Permit

File No. 205-111-068; Case No's. CUP 17-03

Conditions in blue added at the Planning Commission Meeting of August 22, 2017.

Condition 17 Modified by Planning Commission at Meeting of September 26, 2017

Conditions of Approval

1. **Security Plan:** The permittee shall modify the security plan to include the information required by Section 40200 et. seq of the California Code of Regulations. At minimum, the security plan shall include a description of the security measures to be taken to:

(a) Prevent access to the premises by unauthorized personnel and protect the physical safety of employees. This includes, but is not limited to:

(1) Establishing physical barriers to secure perimeter access and all points of entry into a manufacturing premises (such as locking primary entrances with commercial-grade, non-residential door locks, or providing fencing around the grounds, driveway, and any secondary entrances including windows, roofs, or ventilation systems);

(2) Installing a security alarm system to notify and record incident(s) where physical barriers have been breached;

(3) Establishing an identification and sign-in/sign-out procedure for authorized personnel, suppliers, and/or visitors;

(4) Maintaining the premises such that visibility and security monitoring of the premises is possible; and

(5) Establishing procedures for the investigation of suspicious activities.

(b) Prevent against theft or loss of cannabis and cannabis products. This includes but is not limited to:

(1) Establishing an inventory system to track cannabis material and the personnel responsible for processing it throughout the manufacturing process;

(2) Limiting access of personnel within the premises to those areas necessary to complete job duties, and to those time-frames specifically scheduled for completion of job duties;

(3) Supervising tasks or processes with high potential for diversion (including the loading and unloading of cannabis transportation vehicles); and

(4) Providing designated areas in which personnel may store and access personal items.

(c) Secure and back up electronic records in a manner that prevents unauthorized access and that the integrity of the records is maintained.

2. Records and Reporting

Record Retention. The term record includes: all records, applications, reports or other supporting documents required by the City and the State.

(a) Each permittee shall keep and maintain the records listed in subsection (e) for at least 7 years from the date the document was created.

(b) Records shall be kept in a manner that allows the records to be immediately produced for the City at the permitted premises.

(c) All records related to commercial cannabis activity are subject to inspection by the City.

(d) A permittee may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the licensee of its responsibilities under this condition.

(e) Each permittee shall maintain all of the following records on the licensed premises or at a different location identified by the licensee and approved by the City, including but not limited to:

(1) City and State issued permits and license(s);

(2) Plan of Operations;

(3) All records evidencing compliance with the environmental protection measures required in Sections 8313, 8314, and 8315 of the California Code of Regulations;

(4) Any supporting documentation for data or information input into the track-and-trace system;

(5) Financial records, including but not limited to, bank statements, tax records, invoices, and sales receipts;

- (6) Personnel records, including each employee's full name, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable;
- (7) Training records, including but not limited to the content of the training provided and the names of the employees that received the training;
- (8) Contracts with other state licensed medical cannabis businesses;
- (9) Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity;
- (10) Security records; and
- (11) Records associated with the composting or disposal of waste.

(f) All required records shall be prepared and retained in accordance with the following conditions:

- (1) Records shall be legible; and
- (2) Records shall be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, fire and theft.

3. Background Checks

Owner(s) or employee(s) who makes or will make operational or management decisions that directly impact the business shall consent to a background check pursuant to Section 19322(a)(1)(A) of the Business and Professions Code, including submitting to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests, and information as to the existence and content of a record of State and Federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal. The applicant shall be responsible for the costs associated with the required background check.

- (i) No Owner or employee who makes or will make operational or management decisions that directly impact the business shall have been convicted of an offense, or is currently free on bail or on his or her own recognizance pending trial or

appeal for an offense, that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, including but not be limited to, the following:

- (A) A felony conviction for the illegal possession for sale, manufacture, transportation, or cultivation of a controlled substance;
- (B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- (C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- (D) A felony conviction involving fraud, deceit, or embezzlement.

4. Processing and Distribution: The applicant shall comply with all State regulations regarding processing, packaging and distribution, including packaging and labeling.

5. All wiring and associated controllers shall be in waterproof conduits or located above the base flood elevation (BFE).

6. Parking spaces shall be clearly delineated with white 4 inch wide lines and that the striping be continuously maintained in a clear and visible manner.

7. Concrete curbing at least 6 inches in height and 6 inches wide shall be installed around the perimeter of the parking landscaped areas.

8. Any exterior light fixtures must be LED and be directed downward and away from adjoining properties and public rights-of-way and so that no on-site light fixture directly illuminates adjacent properties.

9. The applicant shall provide five (5) bicycle spaces and two (2) motorcycle parking spaces. Each motorcycle space shall have a minimum dimension of four (4) feet by seven (7) feet long.

10. The applicant shall provide one 11' x 35' loading space with at least 14 feet of vertical clearance. The loading area must be striped and identified for "loading only" and the striping and notation must be continuously maintained in a clear and visible manner.

11. The landscape strips shall be design/constructed to act as retention/detention facilities.

12. The applicant shall provide four (4) lighted exits within the cultivation area and a one-hour fire wall between the cultivation area and the water tank manufacturing area.

13. Community Relations: Each medical cannabis facility shall provide the City Manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the medical cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the medical cannabis facility. Each medical cannabis facility shall also provide the above information to its business neighbors located within 300 feet of the medical cannabis facility.

14. Inspections: Consent to a minimum of at least one quarterly on-site compliance inspection, to be conducted by appropriate City officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The applicant shall be required to pay the Inspection Fee in effect at that time.

15. Highway 101, Metropolitan Heights and Northwestern Intersection Improvements: Any required improvement costs to the Highway 101 and Metropolitan Heights and Northwestern Intersections will be shared among the developers based on the number of daily trips generated by their uses.

16. The applicant shall execute the Release of Liability and Hold Harmless Agreement required by Section 17.30.195(4) of the Rio Dell Municipal Code (RDMC).

17. Security perimeter fencing shall be installed. The type of fencing shall be identified by the Planning Commission. **The fence along the front of the parcel (parallel to Highway 101) shall be a black wrought iron fence. All other perimeter fencing shall be black vinyl coated or wrought iron fencing. The wrought iron fencing shall be located at the eastern edge of the Northwestern Avenue right of way.**

18. The garbage/recycling area shall be located at the rear of the building so as not to be visible from Highway 101. The garbage/recycling area shall be screened utilizing a cyclone fence with privacy slats, a 6 foot board on board fence or a concrete masonry unit wall.

19. **The applicant shall establish and/or participate in a Track and Trace program approved by the City should cultivation activities commence prior to the State's Track and Trace program which is scheduled to be effective January 1, 2018.**

20. **The applicant shall provide 29 delineated (painted) parking spaces, including two handicap van spaces. Regular spaces shall be 8.5' x 19'. Handicap spaces shall be located so they are the closest spots to the accessible entrance. The size of the spaces shall be that required by Chapter 11B of the California Building Code.**

Operational Conditions

1. All outdoor storage materials and equipment shall be screened from public view.
2. The building, parking lot, stripping and landscaping shall be maintained in good condition. The stripping shall be permanently maintained in a clear and visible manner.
3. The storm drain system, including the detention/retention basin shall be maintained to ensure it works properly.

Informational Notes

1. If potential archaeological resources, paleontological resources or human remains are unearthed during grading activities, all work ground disturbing activities shall be stopped and a qualified archaeologist funded by the applicant and approved by the City of Rio Dell and the Bear River Band of the Wiyot Nation, shall be contracted to evaluate the find, determine its significance, and identify any required mitigation (e.g., data recovery, resource recovery, in-situ preservation/capping, etc.). Any such mitigation shall be implemented by the developer prior to resumption of any ground disturbing activities.
2. In accordance with California Health and Safety Code §7050.5 and California Public Resources Code §5097.94 and 5097.98, if human remains are uncovered during project subsurface construction activities, all work shall be suspended immediately and the City of Rio Dell, Humboldt County Coroner and the Bear River Band of the Wiyot Nation shall be immediately notified. If the remains are determined by the Coroner to be Native American in origin, the Native American Heritage Commission (NAHC) shall be notified within 24 hours of the determination, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains.

RESOLUTION NO. PC 139-2019



**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
REGARDING THE STUDEBAKER MODIFICATION TO THE APPROVED CANNABIS
ACTIVITY CONDITIONAL USE PERMIT.**

WHEREAS Shawn Studebaker made application for a Conditional Use Permit for 9,800 square feet of indoor cultivation of medicinal cannabis within an existing 23, 500+/- square foot building; and

WHEREAS the Planning Commission approved the Studebaker Conditional Use Permit at their meeting of August 22, 2017; and

WHEREAS one of the original conditions of approval required the installation of a wrought iron fence along the front property line parallel to Northwestern Avenue; and

WHEREAS the remainder of the parcel was required to be fenced with either black vinyl coated or wrought iron fencing; and

WHEREAS the applicant has requested that the existing chain link fencing surrounding the property not have to be removed; and

WHEREAS based on the information submitted, staff recommends that the Planning Commission consider the following alternatives in considering the modification request.

1. Approve the applicant's request allowing the existing galvanized chain link fencing; or
2. Deny the applicant's request and require that the original conditions be implemented; or
3. Require that the fence along the access easement be either black vinyl coated or wrought iron fencing; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rio Dell

- ☐ Approves the applicant's request allowing the existing galvanized chain link fencing; or
- ☐ Denies the applicant's request and require that the original conditions be implemented;
or
- ☐ Requires that the fence along the access easement be either black vinyl coated or wrought iron fencing.

I HEREBY CERTIFY that the forgoing Resolution was PASSED and ADOPTED at a regular meeting of the Planning Commission of the City of Rio Dell on March 26, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Nick Angeloff, Chairperson

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Resolution No. PC 139-2019 adopted by the Planning Commission of the City of Rio Dell on March 26, 2019.

Karen Dunham, City Clerk, City of Rio Dell

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: March 26, 2019

☐ Consent Item; ☒ Public Hearing Item

To: Planning Commission

From: Kevin Caldwell, Community Development Director

Through: Kyle Knopp, City Manager

Date: March 19, 2019

Subject: 2019 – 2017 Housing Element Workshop

Recommendation:

That the Planning Commission:

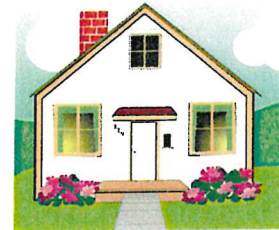
1. Receive staff's report regarding the pending Housing Element update; and
2. Solicit and encourage public participation and discussion regarding:
 - Housing Law
 - Regional Housing Needs Allocation (RHNA)
 - Site Inventory Requirements
 - Constrains Analysis
 - Existing Goals and Policies
 - Local Housing Needs
 - Accessory Dwelling Units
 - Other Topics of Interest

Attachment 1: Housing Element Overview

Attachment 2: HCD's Accessory Dwelling Unit Memorandum

2019-2027 Housing Element

Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. California's local governments meet this requirement by adopting housing plans as part of their "general plan" (also required by the state). General plans serve as the local government's "blueprint" for how the city and/or county will grow and develop and include seven elements: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating that housing be included as an element of each jurisdiction's general plan is known as "housing-element law."



California's housing-element law acknowledges that, in order for the private market to adequately address the housing needs and demand of Californians, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain), housing development. As a result, housing policy in California rests largely on the effective implementation of local general plans and, in particular, local housing elements.

The proposed Housing Element represents a revision of the Housing Element of the General Plan, adopted in 2011. This Housing Element revision is being prepared to meet State legislative provision as described in Section 65588 of the Government Code and to address issues required by a substantial number of new and amended Government Code provisions passed since the adoption of the former Housing Element. The revision of the Housing Element is also required to achieve consistency with the City's General Plan. Lastly, the Element is being revised to address a variety of local housing issues currently facing the City. For example, measures in the General Plan seek to encourage homeownership, infrastructure upgrades to support housing, and greater private investment in the community by supporting revitalization of the Town Center area.

There are four major components of the Housing Element:

- ❖ **Housing Needs Assessment**
- ❖ **Evaluation of Constraints to Housing**
- ❖ **Identification of Potential Housing Sites**
- ❖ **Program Strategy to Address Needs**

Update Schedule

Planning Activity	Timeline
Topics of Interest, Policies and Implementation Measures posted on the Web.	End of February 2019
Public Announcement/Survey in the City's March Newsletter	March 1, 2019
HCAOG Certification of Regional Housing Needs Allocation (RHNA) numbers.	March 21, 2019
1 st Planning Commission Public Hearing	March 26, 2019
Annual Housing Element Progress Report	April 1, 2019
CEQA Review/Determination	End of April 2019
City Council Public Hearings	May 2019
Submittal to HCD for Certification	End of June 2019

What is the Regional Housing Needs Assessment (RHNA)?

State housing element law requires jurisdictions to meet their shares of the state prescribed regional housing need. The City does this by maintaining a residential land inventory sufficient to meet the assessed number of units (known as RHNA).

The 2019 Housing Element covers an eight-year cycle. The planning horizon for this Housing Element extends to 2027. The final housing allotments calculated and adopted by Humboldt County Association of Governments (HCAOG) are shown in the table below

Jurisdiction	Very Low Income Allocation	Low Income Allocation	Moderate Income Allocation	Above Moderate Income Allocation	Proposed Total RHNA Allocation
Arcata	142	95	111	262	610
Blue Lake	7	4	5	7	23
Eureka	231	147	172	402	952
Ferndale	9	5	6	13	33
Fortuna	73	46	51	120	290
Rio Dell	12	8	9	22	51
Trinidad	4	4	3	7	18
County	351	223	256	583	1413
RHNA Targets	829	532	613	1416	3390

Source: Humboldt County Association of Governments (HCAOG) 2019 RHNA Assessment



City of Rio Dell
COMMUNITY SURVEY
2019-2027 HOUSING ELEMENT UPDATE



The City is in the process of updating the Housing Element for the 2019—2027 planning period. Please take a few minutes to respond to the following questions and let us know how important each of the following concerns is to you and your family or the people you represent in your organization.

HOUSING NEEDS

1. Ensuring that children who grew up in Rio Dell can afford to live in Rio Dell.
☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

2. Create mixed-use (commercial/office and residential) projects in the community that encourage walkable neighborhoods and reduce dependency on automobiles.
☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

3. Ensuring that the housing market in Rio Dell provides a diverse range of housing types, including single family homes, townhouses, duplexes, and apartments, to meet the varied needs of local residents.
☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

4. Establish special needs housing for seniors, large families and persons with disabilities.
☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

5. Integrate affordable housing throughout the community to create mixed-income neighborhoods and eliminate the concentration of poverty in certain neighborhoods.
☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

6. Encourage energy conservation through site and building design.
☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

7. Provide shelters and transitional housing for the homeless, along with services to help move person into permanent housing.
☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

HOUSING CONDITIONS

8. Encourage the rehabilitation of existing housing stock in older neighborhoods.

☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

HOUSING ISSUES

9. Establish programs to help at-risk homeowners keep their homes, including mortgage loan programs, Fair/Equitable Housing opportunities and programs to help maintain and secure neighborhoods that have suffered numerous foreclosures.

☐ Very Important ☐ Somewhat Important ☐ Not Important ☐ Don't Know

OTHER ISSUES

10. Please indicate in the space below any housing issues or concerns that you have, that are not listed above, and that you think should be considered in the Housing Element update process:

11. Check all that apply to you:

- | | |
|--|---|
| <input type="checkbox"/> Resident of Rio Dell | <input type="checkbox"/> Employed in Rio Dell |
| <input type="checkbox"/> Renter | <input type="checkbox"/> Homeowner |
| <input type="checkbox"/> 1 person household | <input type="checkbox"/> 2 person household |
| <input type="checkbox"/> 3 person household | <input type="checkbox"/> 4 person household |
| <input type="checkbox"/> 5 or more person household | <input type="checkbox"/> Developer of housing |
| <input type="checkbox"/> Developer of commercial buildings | <input type="checkbox"/> Owner of a Rio Dell business |
| <input type="checkbox"/> Use public transportation | <input type="checkbox"/> Commute more than 10 miles to work |
| <input type="checkbox"/> Housing Advocate/Stakeholder | <input type="checkbox"/> Service Provider |

12. Are you actively involved in a community based organization? ☐ Yes ☐ No

13. If so, which one(s)?

-

Please return this form to City Hall, 675 Wildwood Avenue
THANK YOU FOR YOUR TIME!



Courtesy of Karen Chapple, UC Berkeley

California Department of Housing and Community Development
Where Foundations Begin

Accessory Dwelling Unit Memorandum

December 2016



Table of Contents

Understanding ADUs and Their Importance	1
Summary of Recent Changes to Accessory Dwelling Unit Laws	3
Frequently Asked Questions: Accessory Dwelling Units	7
Should an Ordinance Encourage the Development of ADUs?.....	7
Are Existing Ordinances Null and Void?.....	7
Are Local Governments Required to Adopt an Ordinance?	8
Can a Local Government Preclude ADUs?	8
Can a Local Government Apply Development Standards and Designate Areas?.....	8
Can a Local Government Adopt Less Restrictive Requirements?	9
Can Local Governments Establish Minimum and Maximum Unit Sizes?	9
Can ADUs Exceed General Plan and Zoning Densities?	9
How Are Fees Charged to ADUs?.....	11
What Utility Fee Requirements Apply to ADUs.....	11
What Utility Fee Requirements Apply to Non-City and County Service Districts?	11
Do Utility Fee Requirements Apply to ADUs within Existing Space?	11
Does “Public Transit” Include within One-half Mile of a Bus Stop and Train Station?	11
Can Parking Be Required Where a Car Share is Available?	12
Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?	12
Is Covered Parking Required?	12
Is Replacement Parking Required When the Parking Area for the Primary Structure is Used for an ADU?	12
Are Setbacks Required When an Existing Garage is Converted to an ADU?	12
Are ADUs Permitted in Existing Residence and Accessory Space?	13
Are Owner Occupants Required?	13
Are Fire Sprinklers Required for ADUs?.....	13
Is Manufactured Housing Permitted as an ADU?	14
Can an Efficiency Unit Be Smaller than 220 Square Feet?.....	14
Does ADU Law Apply to Charter Cities and Counties?	14
Do ADUs Count toward the Regional Housing Need Allocation.....	14
Must Ordinances Be Submitted to the Department of Housing and Community Development?	15

Frequently Asked Questions: Junior Accessory Dwelling Units	16
Is There a Difference between ADU and JADU?	16
Why Adopt a JADU Ordinance?.....	17
Can JADUs Count towards The RHNA?	17
Can the JADU Be Sold Independent of the Primary Dwelling?	17
Are JADUs Subject to Connection and Capacity Fees?	17
Are There Requirements for Fire Separation and Fire Sprinklers?	18
Resources	19
Attachment 1: Statutory Changes (Strikeout/Underline)	19
Attachment 2: Sample ADU Ordinance	26
Attachment 3: Sample JADU Ordinance	29
Attachment 4: State Standards Checklist	32
Attachment 5: Bibliography	33

Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- *Detached*: The unit is separated from the primary structure
- *Attached*: The unit is attached to the primary structure
- *Repurposed Existing Space*: Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units*: Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.

Summary of Recent Changes to ADU Laws



Courtesy of Karen Chapple, UC Berkeley

The California legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in single family and multifamily zones provides additional rental housing and are an essential component in addressing housing needs in California. Over the years, ADU law has been revised to improve its effectiveness such as recent changes in 2003 to require ministerial approval. In 2017, changes to ADU laws will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADUs.

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, the disabled, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the Department has prepared this guidance to assist local governments in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a brief summary of the changes for each bill.

SB 1069 (Wieckowski)

S.B. 1069 (Chapter 720, Statutes of 2016) made several changes to address barriers to the development of ADUs and expanded capacity for their development. The following is a brief summary of provisions that go into effect January 1, 2017.

Parking

SB 1069 reduces parking requirements to one space per bedroom or unit. The legislation authorizes off street parking to be tandem or in setback areas unless specific findings such as fire and life safety conditions are made. SB 1069 also prohibits parking requirements if the ADU meets any of the following:

- Is within a half mile from public transit.
- Is within an architecturally and historically significant historic district.
- Is part of an existing primary residence or an existing accessory structure.
- Is in an area where on-street parking permits are required, but not offered to the occupant of the ADU.
- Is located within one block of a car share area.

Fees

SB 1069 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service.

Fire Requirements

SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

ADUs within Existing Space

Local governments must ministerially approve an application to create within a single family residential zone one ADU per single family lot if the unit is:

- contained within an existing residence or accessory structure.
- has independent exterior access from the existing residence.
- has side and rear setbacks that are sufficient for fire safety.

These provisions apply within all single family residential zones and ADUs within existing space must be allowed in all of these zones. No additional parking or other development standards can be applied except for building code requirements.

No Total Prohibition

SB 1069 prohibits a local government from adopting an ordinance that precludes ADUs.

AB 2299 (Bloom)

Generally, AB 2299 (Chapter 735, Statutes of 2016) requires a local government (beginning January 1, 2017) to ministerially approve ADUs if the unit complies with certain parking requirements, the maximum allowable size of an attached ADU, and setback requirements, as follows:

- The unit is not intended for sale separate from the primary residence and may be rented.
- The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.
- The unit is either attached to an existing dwelling or located within the living area of the existing dwelling or detached and on the same lot.
- The increased floor area of the unit does not exceed 50% of the existing living area, with a maximum increase in floor area of 1,200 square feet.
- The total area of floorspace for a detached accessory dwelling unit does not exceed 1,200 square feet.
- No passageway can be required.
- No setback can be required from an existing garage that is converted to an ADU.

- Compliance with local building code requirements.
- Approval by the local health officer where private sewage disposal system is being used.

Impact on Existing Accessory Dwelling Unit Ordinances

AB 2299 provides that any existing ADU ordinance that does not meet the bill's requirements is null and void upon the date the bill becomes effective. In such cases, a jurisdiction must approve accessory dwelling units based on Government Code Section 65852.2 until the jurisdiction adopts a compliant ordinance.

AB 2406 (Thurmond)

AB 2406 (Chapter 755, Statutes of 2016) creates more flexibility for housing options by authorizing local governments to permit junior accessory dwelling units (JADU) through an ordinance. The bill defines JADUs to be a unit that cannot exceed 500 square feet and must be completely contained within the space of an existing residential structure. In addition, the bill requires specified components for a local JADU ordinance. Adoption of a JADU ordinance is optional.

Required Components

The ordinance authorized by AB 2406 must include the following requirements:

- Limit to one JADU per residential lot zoned for single-family residences with a single-family residence already built on the lot.
- The single-family residence in which the JADU is created or JADU must be occupied by the owner of the residence.
- The owner must record a deed restriction stating that the JADU cannot be sold separately from the single-family residence and restricting the JADU to the size limitations and other requirements of the JADU ordinance.
- The JADU must be located entirely within the existing structure of the single-family residence and JADU have its own separate entrance.
- The JADU must include an efficiency kitchen which includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards. No gas or 220V circuits are allowed.
- The JADU may share a bath with the primary residence or have its own bath.

Prohibited Components

This bill prohibits a local JADU ordinance from requiring:

- Additional parking as a condition to grant a permit.
- Applying additional water, sewer and power connection fees. No connections are needed as these utilities have already been accounted for in the original permit for the home.

Fire Safety Requirements

AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life protections ordinances and regulations, such as sprinklers and smoke detectors. The bill also requires life and protection ordinances that affect single-family residences to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

JADUs and the RHNA

As part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a JADU toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit which is fairly flexible. Local government count units as part of reporting to DOF. JADUs meet these definitions and this bill would allow cities and counties to earn credit toward meeting their RHNA allocations by permitting residents to create less costly accessory units. See additional discussion under JADU frequently asked questions.

Frequently Asked Questions: Accessory Dwelling Units

Should an Ordinance Encourage the Development of ADUs?

Yes, ADU law and recent changes intend to address barriers, streamline approval and expand potential capacity for ADUs recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment and implementation of local ADU ordinances must be carried out consistent with Government Code Section 65852.150:

(a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

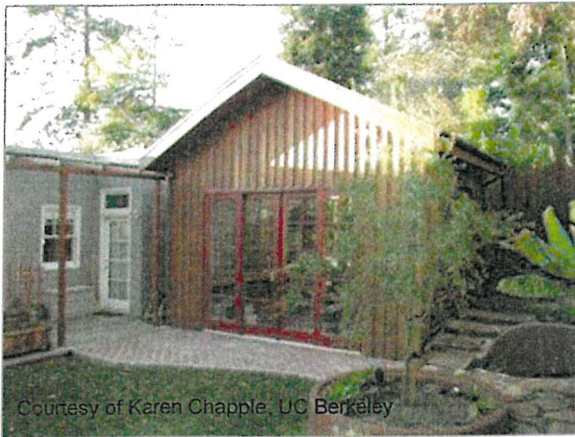
(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

Are Existing Ordinances Null and Void?



Yes, any local ordinance adopted prior to January 1, 2017 that is not in compliance with the changes to ADU law will be null and void. Until an ordinance is adopted, local governments must apply "state standards" (See Attachment 4 for State Standards checklist). In the absence of a local ordinance complying with ADU law, local review must be limited to "state standards" and cannot include additional requirements such as those in an existing ordinance.

Are Local Governments Required to Adopt an Ordinance?

No, a local government is **not required** to adopt an ordinance. ADUs built within a jurisdiction that lacks a local ordinance must comply with state standards (See Attachment 4). Adopting an ordinance can occur through different forms such as a new ordinance, amendment to an existing ordinance, separate section or special regulations within the zoning code or integrated into the zoning code by district. However, the ordinance should be established legislatively through a public process and meeting and not through internal administrative actions such as memos or zoning interpretations.

Can a Local Government Preclude ADUs?

No local government cannot preclude ADUs.

Can a Local Government Apply Development Standards and Designate Areas?

Yes, local governments may apply development standards and may designate where ADUs are permitted (GC Sections 65852.2(a)(1)(A) and (B)). However, ADUs within existing structures must be allowed in all single family residential zones.

For ADUs that require an addition or a new accessory structure, development standards such as parking, height, lot coverage, lot size and maximum unit size can be established with certain limitations. ADUs can be avoided or allowed through an ancillary and separate discretionary process in areas with health and safety risks such as high fire hazard areas. However, standards and allowable areas must not be designed or applied in a manner that burdens the development of ADUs and should maximize the potential for ADU development. Designating areas where ADUs are allowed should be approached primarily on health and safety issues including water, sewer, traffic flow and public safety. Utilizing approaches such as restrictive overlays, limiting ADUs to larger lot sizes, burdensome lot coverage and setbacks and particularly concentration or distance requirements (e.g., no less than 500 feet between ADUs) may unreasonably restrict the ability of the homeowners to create ADUs, contrary to the intent of the Legislature.

Requiring large minimum lot sizes and not allowing smaller lot sizes for ADUs can severely restrict their potential development. For example, large minimum lot sizes for ADUs may constrict capacity throughout most of the community. Minimum lot sizes cannot be applied to ADUs within existing structures and could be considered relative to health and safety concerns such as areas on septic systems. While larger lot sizes might be targeted for various reasons such as ease of compatibility, many tools are available (e.g., maximum unit size, maximum lot coverage, minimum setbacks, architectural and landscape requirements) that allows ADUs to fit well within the built environment.

Can a Local Government Adopt Less Restrictive Requirements?

Yes, ADU law is a minimum requirement and its purpose is to encourage the development of ADUs. Local governments can take a variety of actions beyond the statute that promote ADUs such as reductions in fees, less restrictive parking or unit sizes or amending general plan policies.

Santa Cruz has confronted a shortage of housing for many years, considering its growth in population from incoming students at UC Santa Cruz and its proximity to Silicon Valley. The city promoted the development of ADUs as critical infill-housing opportunity through various strategies such as creating a manual to promote ADUs. The manual showcases prototypes of ADUs and outlines city zoning laws and requirements to make it more convenient for homeowners to get information. The City found that homeowners will take time to develop an ADU only if information is easy to find, the process is simple, and there is sufficient guidance on what options they have in regards to design and planning.

The city set the minimum lot size requirement at 4,500 sq. ft. to develop an ADU in order to encourage more homes to build an ADU. This allowed for a majority of single-family homes in Santa Cruz to develop an ADU. For more information, see <http://www.cityofsantacruz.com/departments/planning-and-community-development/programs/accessory-dwelling-unit-development-program>.

Can Local Governments Establish Minimum and Maximum Unit Sizes?

Yes, a local government may establish minimum and maximum unit sizes (GC Section 65852.2(c)). However, like all development standards (e.g., height, lot coverage, lot size), unit sizes should not burden the development of ADUs. For example, setting a minimum unit size that substantially increases costs or a maximum unit size that unreasonably restricts opportunities would be inconsistent with the intent of the statute. Typical maximum unit sizes range from 800 square feet to 1,200 square feet. Minimum unit size must at least allow for an efficiency unit as defined in Health and Safety Code Section 17958.1.

ADU law requires local government approval if meeting various requirements (GC Section 65852.2(a)(1)(D)), including unit size requirements. Specifically, attached ADUs shall not exceed 50 percent of the existing living area or 1,200 square feet and detached ADUs shall not exceed 1,200 square feet. A local government may choose a maximum unit size less than 1,200 square feet as long as the requirement is not burdensome on the creation of ADUs.

Can ADUs Exceed General Plan and Zoning Densities?

An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Minimum lot sizes must not be doubled (e.g., 15,000 square feet) to account for an ADU. Further, local governments could elect to allow more than one ADU on a lot.

New developments can increase the total number of affordable units in their project plans by integrating ADUs. Aside from increasing the total number of affordable units, integrating ADUs also promotes housing choices within a development. One such example is the Cannery project in Davis, CA. The Cannery project includes 547 residential units with up to 60 integrated ADUs. ADUs within the Cannery blend in with surrounding architecture, maintaining compatibility with neighborhoods and enhancing community character. ADUs are constructed at the same time as the primary single-family unit to ensure the affordable rental unit is available in the housing supply concurrent with the availability of market rate housing.

How Are Fees Charged to ADUs?

All impact fees, including water, sewer, park and traffic fees must be charged in accordance with the Fee Mitigation Act, which requires fees to be proportional to the actual impact (e.g., significantly less than a single family home).

Fees on ADUs, must proportionately account for impact on services based on the size of the ADU or number of plumbing fixtures. For example, a 700 square foot new ADU with one bathroom that results in less landscaping should be charged much less than a 2,000 square foot home with three bathrooms and an entirely new landscaped parcel which must be irrigated. Fees for ADUs should be significantly less and should account for a lesser impact such as lower sewer or traffic impacts.

What Utility Fee Requirements Apply to ADUs?

Cities and counties cannot consider ADUs as new residential uses when calculating connection fees and capacity charges.

Where ADUs are being created within an existing structure (primary or accessory), the city or county cannot require a new or separate utility connections for the ADU and cannot charge any connection fee or capacity charge.

For other ADUs, a local agency may require separate utility connections between the primary dwelling and the ADU, but any connection fee or capacity charge must be proportionate to the impact of the ADU based on either its size or the number of plumbing fixtures.

What Utility Fee Requirements Apply to Non-City and County Service Districts?

All local agencies must charge impact fees in accordance with the Mitigation Fee Act (commencing with Government Code Section 66000), including in particular Section 66013, which requires the connection fees and capacity charges to be proportionate to the burden posed by the ADU. Special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Providers should consider a proportionate or sliding scale fee structures that address the smaller size and lesser impact of ADUs (e.g., fees per square foot or fees per fixture). Fee waivers or deferrals could be considered to better promote the development of ADUs.

Do Utility Fee Requirements Apply to ADUs within Existing Space?

No, where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) must not be required.

Does "Public Transit" Include within One-half Mile of a Bus Stop and Train Station?

Yes, "public transit" may include a bus stop, train station and paratransit if appropriate for the applicant. "Public transit" includes areas where transit is available and can be considered regardless of tighter headways (e.g., 15 minute intervals). Local governments could consider a broader definition of "public transit" such as distance to a bus route.

Can Parking Be Required Where a Car Share Is Available?

No, ADU law does not allow parking to be required when there is a car share located within a block of the ADU. A car share location includes a designated pick up and drop off location. Local governments can measure a block from a pick up and drop off location and can decide to adopt broader distance requirements such as two to three blocks.

Is Off Street Parking Permitted in Setback Areas or through Tandem Parking?

Yes, ADU law deliberately reduces parking requirements. Local governments may make specific findings that tandem parking and parking in setbacks are infeasible based on specific site, regional topographical or fire and life safety conditions or that tandem parking or parking in setbacks is not permitted anywhere else in the jurisdiction. However, these determinations should be applied in a manner that does not unnecessarily restrict the creation of ADUs.

Local governments must provide reasonable accommodation to persons with disabilities to promote equal access housing and comply with fair housing laws and housing element law. The reasonable accommodation procedure must provide exception to zoning and land use regulations which includes an ADU ordinance. Potential exceptions are not limited and may include development standards such as setbacks and parking requirements and permitted uses that further the housing opportunities of individuals with disabilities.

Is Covered Parking Required?

No, off street parking must be permitted through tandem parking on an existing driveway, unless specific findings are made.

Is Replacement Parking Required When the Parking Area for the Primary Structure Is Used for an ADU?

Yes, but only if the local government requires off-street parking to be replaced in which case flexible arrangements such as tandem, including existing driveways and uncovered parking are allowed. Local governments have an opportunity to be flexible and promote ADUs that are being created on existing parking space and can consider not requiring replacement parking.

Are Setbacks Required When an Existing Garage Is Converted to an ADU?

No, setbacks must not be required when a garage is converted or when existing space (e.g., game room or office) above a garage is converted. Rear and side yard setbacks of no more than five feet are required when new space is added above a garage for an ADU. In this case, the setbacks only apply to the added space above the garage, not the existing garage and the ADU can be constructed wholly or partly above the garage, including extending beyond the garage walls.

Also, when a garage, carport or covered parking structure is demolished or where the parking area ceases to exist so an ADU can be created, the replacement parking must be allowed in any "configuration" on the lot, "...including,

but not limited to, covered spaces, uncovered spaces, or tandem spaces, or...." Configuration can be applied in a flexible manner to not burden the creation of ADUs. For example, spatial configurations like tandem on existing driveways in setback areas or not requiring excessive distances from the street would be appropriate.

Are ADUs Permitted in Existing Residence or Accessory Space?

Yes, ADUs located in single family residential zones and existing space of a single family residence or accessory structure must be approved regardless of zoning standards (Section 65852.2(a)(1)(B)) for ADUs, including locational requirements (Section 65852.2(a)(1)(A)), subject to usual non-appealable ministerial building permit requirements. For example, ADUs in existing space does not necessitate a zoning clearance and must not be limited to certain zones or areas or subject to height, lot size, lot coverage, unit size, architectural review, landscape or parking requirements. Simply, where a single family residence or accessory structure exists in any single family residential zone, so can an ADU. The purpose is to streamline and expand potential for ADUs where impact is minimal and the existing footprint is not being increased.

Zoning requirements are not a basis for denying a ministerial building permit for an ADU, including non-conforming lots or structures. The phrase, "...within the existing space" includes areas within a primary home or within an attached or detached accessory structure such as a garage, a carriage house, a pool house, a rear yard studio and similar enclosed structures.

Are Owner Occupants Required?

No, however, a local government can require an applicant to be an owner occupant. The owner may reside in the primary or accessory structure. Local governments can also require the ADU to not be used for short term rentals (terms lesser than 30 days). Both owner occupant use and prohibition on short term rentals can be required on the same property. Local agencies which impose this requirement should require recordation of a deed restriction regarding owner occupancy to comply with GC Section 27281.5

Are Fire Sprinklers Required for ADUs?

Depends, ADUs shall not be required to provide fire sprinklers if they are not or were not required of the primary residence. However, sprinklers can be required for an ADU if required in the primary structure. For example, if the primary residence has sprinklers as a result of an existing ordinance, then sprinklers could be required in the ADU. Alternative methods for fire protection could be provided.

If the ADU is detached from the main structure or new space above a detached garage, applicants can be encouraged to contact the local fire jurisdiction for information regarding fire sprinklers. Since ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, students, the elderly, in-home health care providers, the disabled, and others, the fire departments want to ensure the safety of these populations as well as the safety of those living in the primary structure. Fire Departments can help educate property owners on the benefits of sprinklers, potential resources and how they can be installed cost effectively. For example, insurance rates are typically 5 to 10 percent lower where the unit is sprinklered. Finally, other methods exist to provide additional fire protection. Some options may include additional exits, emergency escape and rescue openings, 1 hour or greater fire-rated assemblies, roofing materials and setbacks from property lines or other structures.

Is Manufactured Housing Permitted as an ADU?

Yes, an ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes an efficiency unit (Health and Safety Code Section 17958.1) and a manufactured home (Health and Safety Code Section 18007).

Health and Safety Code Section 18007(a) **“Manufactured home,”** for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

Can an Efficiency Unit Be Smaller than 220 Square Feet?

Yes, an efficiency unit for occupancy by no more than two persons, by statute (Health and Safety Code Section 17958.1), can have a minimum floor area of 150 square feet and can also have partial kitchen or bathroom facilities, as specified by ordinance or can have the same meaning specified in the Uniform Building Code, referenced in the Title 24 of the California Code of Regulations.

The 2015 International Residential Code adopted by reference into the 2016 California Residential Code (CRC) allows residential dwelling units to be built considerably smaller than an Efficiency Dwelling Unit (EDU). Prior to this code change an EDU was required to have a minimum floor area not less than 220 sq. ft unless modified by local ordinance in accordance with the California Health and Safety Code which could allow an EDU to be built no less than 150 sq. ft. For more information, see HCD's Information Bulletin at <http://www.hcd.ca.gov/codes/manufactured-housing/docs/ib2016-06.pdf>.

Does ADU Law Apply to Charter Cities and Counties?

Yes. ADU law explicitly applies to “local agencies” which are defined as a city, county, or city and county whether general law or chartered (Section 65852.2(i)(2)).

Do ADUs Count toward the Regional Housing Need Allocation?

Yes, local governments may report ADUs as progress toward Regional Housing Need Allocation pursuant to Government Code Section 65400 based on the actual or anticipated affordability. See below frequently asked questions for JADUs for additional discussion.

Must ADU Ordinances Be Submitted to the Department of Housing and Community Development?

Yes, ADU ordinances must be submitted to the State Department of Housing and Community Development within 60 days after adoption, including amendments to existing ordinances. However, upon submittal, the ordinance is not subject to a Department review and findings process similar to housing element law (GC Section 65585)

Frequently Asked Questions: Junior Accessory Dwelling Units

Is There a Difference between ADU and JADU?



Courtesy of Lilypad Homes and Photo Credit to Jocelyn Knight

Yes, AB 2406 added Government Code Section 65852.22, providing a unique option for Junior ADUs. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom. Current law does not prohibit local governments from adopting an ordinance for a JADU, and this bill explicitly allows, not requires, a local agency to do so. If the ordinance requires a permit, the local agency shall not require additional parking or charge a fee for a water or sewer connection as a condition of granting a permit for a JADU. For more information, see below.

ADUs and JADUs

REQUIREMENTS		ADU	JADU
Maximum Unit Size	Yes, generally up to 1,200 Square Feet or 50% of living area	Yes, 500 Square Foot Maximum	
Kitchen	Yes		Yes
Bathroom	Yes		No, Common Sanitation is Allowed
Separate Entrance	Depends		Yes
Parking	Depends, Parking May Be Eliminated and Cannot Be Required Under Specified Conditions		No, Parking Cannot Be Required
Owner Occupancy	Depends, Owner Occupancy May Be Required		Yes, Owner Occupancy Is Required
Ministerial Approval Process	Yes		Yes
Prohibition on Sale of ADU	Yes		Yes

Why Adopt a JADU Ordinance?

JADUs offer the simplest and most affordable housing option. They bridge the gap between a roommate and a tenant by offering an interior connection between the unit and main living area. The doors between the two spaces can be secured from both sides, allowing them to be easily privatized or incorporated back into the main living area. These units share central systems, require no fire separation, and have a basic kitchen, utilizing small plug in appliances, reducing development costs. This provides flexibility and an insurance policy in homes in case additional income or housing is needed. They present no additional stress on utility services or infrastructure because they simply repurpose spare bedrooms that do not expand the homes planned occupancy. No additional address is required on the property because an interior connection remains. By adopting a JADU ordinance, local governments can offer homeowners additional options to take advantage of underutilized space and better address its housing needs.

Can JADUs Count towards the RHNA?

Yes, as part of the housing element portion of their general plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs in their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, a JADU, including with shared sanitation facilities, that meets the census definition and is reported to the Department of Finance as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. Local governments can track actual or anticipated affordability to assure the JADU is counted to the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit application.

A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

Can the JADU Be Sold Independent of the Primary Dwelling?

No, the JADU cannot be sold separate from the primary dwelling.

Are JADUs Subject to Connection and Capacity Fees?

No, JADUs shall not be considered a separate or new dwelling unit for the purposes of fees and as a result should not be charged a fee for providing water, sewer or power, including a connection fee. These requirements apply to all providers of water, sewer and power, including non-municipal providers.

Local governments may adopt requirements for fees related to parking, other service or connection for water, sewer or power, however, these requirements must be uniform for all single family residences and JADUs are not considered a new or separate unit.

Are There Requirements for Fire Separation and Fire Sprinklers?

Yes, a local government may adopt requirements related to fire and life protection requirements. However, a JADU shall not be considered a new or separate unit. In other words, if the primary unit is not subject to fire or life protection requirements, then the JADU must be treated the same.

Resources



Courtesy of Karen Chapple, UC Berkeley

Attachment 1: Statutory Changes (Strikeout/Underline)

Government Code Section 65852.2

(a) (1) ~~Any A~~ local agency may, by ordinance, provide for the creation of ~~second-accessory dwelling~~ units in single-family and multifamily residential zones. The ordinance ~~may~~ shall do ~~any~~ all of the following:

(A) Designate areas within the jurisdiction of the local agency where ~~second-accessory dwelling~~ units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of ~~second-accessory dwelling~~ units on traffic ~~flow~~. flow and public safety.

(B) (i) Impose standards on ~~second-accessory dwelling~~ units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that ~~second-accessory dwelling~~ units do not exceed the allowable density for the lot upon which the ~~second-accessory dwelling~~ unit is located, and that ~~second-accessory dwelling~~ units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. ~~Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of ADUs.~~ permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of ADUs. an accessory dwelling unit.

~~(b) (4) (1) An~~ When existing ordinance governing the creation of an accessory dwelling unit by a local agency which has not adopted an ordinance governing ADUs in accordance with subdivision (a) or (c) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance in accordance with subdivision (a) or (c) within 120 days after receiving the application. Notwithstanding Section 65901 or 65906, every local agency shall grant a variance or special use permit for the creation of a ADU if the ADU complies with all of the following: that complies with this section.

~~(A) The unit is not intended for sale and may be rented.~~

~~(B) The lot is zoned for single-family or multifamily use.~~

~~(C) The lot contains an existing single-family dwelling.~~

~~(D) The ADU is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.~~

~~(E) The increased floor area of an attached ADU shall not exceed 30 percent of the existing living area.~~

~~(F) The total area of floorspace for a detached ADU shall not exceed 1,200 square feet.~~

~~(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.~~

~~(H) Local building code requirements which apply to detached dwellings, as appropriate.~~

~~(I) Approval by the local health officer where a private sewage disposal system is being used, if required.~~

~~(2) (5)~~ No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

~~(3) (6)~~ This subdivision establishes the maximum standards that local agencies shall use to evaluate ~~proposed ADUs on lots a~~ proposed accessory dwelling unit on a lot zoned for residential use ~~which contain~~ that contains an existing single-family dwelling. No additional standards, other than those provided in this ~~subdivision or subdivision~~ subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant~~ owner-occupant or that the property be used for rentals of terms longer than 30 days.

~~(4) (7)~~ No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision. Any ~~A~~ local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of ADUs an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

~~(5) (8)~~ A ADU which conforms to the requirements of An accessory dwelling unit that conforms to this subdivision shall ~~be deemed to be an accessory use or an accessory building and shall~~ not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use ~~which that is~~ consistent with the existing general plan and zoning designations for the lot. The ADUs accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

~~(e) (b)~~ No ~~When a~~ local agency shall adopt an ordinance which totally precludes ADUs within single-family or multifamily-zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety, and welfare that would result from allowing ADUs within single-family and multifamily-zoned areas justify adopting the ordinance. that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

~~(d) (c)~~ A local agency may establish minimum and maximum unit size requirements for both attached and detached ~~second~~ accessory dwelling units. No minimum or maximum size for a ~~second~~ an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings ~~which that~~ does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

~~(e)~~ Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the

use of the ADU and are consistent with existing neighborhood standards applicable to existing dwellings. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) ~~(1)~~ Fees charged for the construction of ~~second~~ accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section ~~66000~~, 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs. an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ~~ordinances~~ ordinance adopted pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living ~~area,~~" area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) ~~"Second-~~ "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. ~~A second-~~ An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for ~~second-accessory dwelling~~ units.

Government Code Section 65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A sink with a maximum waste line diameter of 1.5 inches.

(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

(C) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a

permit pursuant to this section. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For the purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Attachment 2: Sample ADU Ordinance

Section XXX1XXX: Purpose

This Chapter provides for accessory dwelling units on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings contribute needed housing to the community's housing stock. Thus, accessory dwelling units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities, including near transit on single family lots.

Section XXX2XXX: Applicability

The provisions of this Chapter apply to all lots that are occupied with a single family dwelling unit and zoned residential. Accessory dwelling units do exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

Section XXX3XXX: Development Standards

Accessory Structures within Existing Space

An accessory dwelling unit within an existing space including the primary structure, attached or detached garage or other accessory structure shall be permitted ministerially with a building permit regardless of all other standards within the Chapter if complying with:

1. Building and safety codes
2. Independent exterior access from the existing residence
3. Sufficient side and rear setbacks for fire safety.

Accessory Structures (Attached and Detached)

General:

1. The unit is not intended for sale separate from the primary residence and may be rented.
2. The lot is zoned for residential and contains an existing, single-family dwelling.
3. The accessory dwelling unit is either attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.
4. The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.
5. The total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet.
6. Local building code requirements that apply to detached dwellings, as appropriate.
7. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
8. No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
9. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.

Parking:

1. Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking, including on an existing driveway or in setback areas, excluding the non-driveway front yard setback.
2. Parking is not required in the following instances:
 - The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations.

- The accessory dwelling unit is located in the WWWW Downtown, XXX Area, YYY Corridor and ZZZ Opportunity Area.
 - The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - When there is a car share vehicle located within one block of the accessory dwelling unit.
3. Replacement Parking: When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking shall not be required and may be located in any configuration on the same lot as the accessory dwelling unit.

Section XXX4XXX: Permit Requirements

ADUs shall be permitted ministerially, in compliance with this Chapter within 120 days of application. The Community Development Director shall issue a building permit or zoning certificate to establish an accessory dwelling unit in compliance with this Chapter if all applicable requirements are met in Section XXX3XXXXX, as appropriate. The Community Development Director may approve an accessory dwelling unit that is not in compliance with Section XXX3XXXXX as set forth in Section XXX5XXXXX. The XXXX Health Officer shall approve an application in conformance with XXXXXX where a private sewage disposal system is being used.

Section XXX5XXX: Review Process for Accessory Structure Not Complying with Development Standards

An accessory dwelling unit that does not comply with standards in Section XXX3XX may be permitted with a zoning certificate or an administrative use permit at the discretion of the Community Development Director subject to findings in Section XXX6XX.

Section XXX6XXX: Findings

A. In order to deny an administrative use permit under Section XXX5XXX, the Community Development Director shall find that the Accessory Dwelling Unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors.

B. In order to approve an administrative use permit under Section XXX5XXX to waive required accessory dwelling unit parking, the Community Development Director shall find that additional or new on-site parking would be detrimental, and that granting the waiver will meet the purposes of this Chapter.

Section XXX7XXX: Definitions

(1) "Living area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(3) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(4) (1) "Existing Structure" for the purposes of defining an allowable space that can be converted to an ADU means within the four walls and roofline of any structure existing on or after January 1, 2017 that can be made safely habitable under local building codes at the determination of the building official regardless of any non-compliance with zoning standards.

Attachment 3: Sample JADU Ordinance

(Lilypad Homes at <http://lilypadhomes.org/>)

Draft Junior Accessory Dwelling Units (JADU) – Flexible Housing

Findings:

1. Causation: Critical need for housing for lower income families and individuals given the high cost of living and low supply of affordable homes for rent or purchase, and the difficulty, given the current social and economic environment, in building more affordable housing
2. Mitigation: Create a simple and inexpensive permitting track for the development of junior accessory dwelling units that allows spare bedrooms in homes to serve as a flexible form of infill housing
3. Endangerment: Provisions currently required under agency ordinances are so arbitrary, excessive, or burdensome as to restrict the ability of homeowners to legally develop these units therefore encouraging homeowners to bypass safety standards and procedures that make the creation of these units a benefit to the whole of the community
4. Co-Benefits: Homeowners (particularly retired seniors and young families, groups that tend to have the lowest incomes) – generating extra revenue, allowing people facing unexpected financial obstacles to remain in their homes, housing parents, children or caregivers; Homebuyers - providing rental income which aids in mortgage qualification under new government guidelines; Renters – creating more low-cost housing options in the community where they work, go to school or have family, also reducing commute time and expenses; Municipalities – helping to meet RHNA goals, increasing property and sales tax revenue, insuring safety standard code compliance, providing an abundant source of affordable housing with no additional infrastructure needed; Community - housing vital workers, decreasing traffic, creating economic growth both in the remodeling sector and new customers for local businesses; Planet - reducing carbon emissions, using resources more efficiently;
5. Benefits of Junior ADUs: offer a more affordable housing option to both homeowners and renters, creating economically healthy, diverse, multi-generational communities;

Therefore the following ordinance is hereby enacted:

This Section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 and subject to different provisions under fire safety codes based on the fact that junior accessory dwelling units do not qualify as "complete independent living facilities" given that the interior connection from the junior accessory dwelling unit to the main living area remains, therefore not redefining the single-family home status of the dwelling unit.

A) *Development Standards.* Junior accessory dwelling units shall comply with the following standards, including the standards in Table below:

- 1) *Number of Units Allowed.* Only one accessory dwelling unit or, junior accessory dwelling unit, may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Precise Development Plan. A junior accessory dwelling unit may only be located on a lot which already contains one legal single-family dwelling.
- 2) *Owner Occupancy:* The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the accessory dwelling, except when the home is held by an agency such as a land trust or housing organization in an effort to create affordable housing.
- 3) *Sale Prohibited:* A junior accessory dwelling unit shall not be sold independently of the primary dwelling on the parcel.

- 4) *Deed Restriction:* A deed restriction shall be completed and recorded, in compliance with Section B below.
- 5) *Location of Junior Accessory Dwelling Unit:* A junior accessory dwelling unit must be created within the existing walls of an existing primary dwelling, and must include conversion of an existing bedroom.
- 6) *Separate Entry Required:* A separate exterior entry shall be provided to serve a junior accessory dwelling unit.
- 7) *Interior Entry Remains:* The interior connection to the main living area must be maintained, but a second door may be added for sound attenuation.
- 8) *Kitchen Requirements:* The junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:
 - a) A sink with a maximum waste line diameter of one-and-a-half (1.5) inches,
 - b) A cooking facility with appliance which do not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas, and
 - c) A food preparation counter and storage cabinets that are reasonable to size of the unit.
- 9) *Parking:* No additional parking is required beyond that required when the existing primary dwelling was constructed.

Development Standards for Junior Accessory Dwelling Units

SITE OR DESIGN FEATURE	SITE AND DESIGN STANDARDS
Maximum unit size	500 square feet
Setbacks	As required for the primary dwelling unit
Parking	No additional parking required

- B) *Deed Restriction:* Prior to obtaining a building permit for a junior accessory dwelling unit, a deed restriction, approved by the City Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior accessory dwelling unit identified in this Section. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Department stating that:
 - 1) The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit;
 - 2) The junior accessory dwelling unit is restricted to the maximum size allowed per the development standards;
 - 3) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence, or the accessory dwelling unit, is occupied by the owner of record of the property, except when the home is owned by an agency such as a land trust or housing organization in an effort to create affordable housing;
 - 4) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.
- C) *No Water Connection Fees:* No agency should require a water connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.
- D) *No Sewer Connection Fees:* No agency should require a sewer connection fee for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard

may be assessed.

- E) *No Fire Sprinklers and Fire Attenuation*: No agency should require fire sprinkler or fire attenuation specifications for the development of a junior accessory dwelling unit. An inspection fee to confirm that the dwelling unit complies with development standard may be assessed.

Definitions of Specialized Terms and Phrases.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(1) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Attachment 4: State Standards Checklist (As of January 1, 2017)

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.	65852.2(a)(1)(D)(ii)
	Accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.	65852.2(a)(1)(D)(iv)
	Total area of floor space for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines are not required for an accessory dwelling unit that is constructed above a garage.	65852.2(a)(1)(D)(vi i)
	(Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(vi ii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)

* Other requirements may apply. See Government Code Section 65852.2

Attachment 5: Bibliography

Reports

[ACCESSORY DWELLING UNITS: CASE STUDY](#) (26 pp.)

By United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

[THE MACRO VIEW ON MICRO UNITS](#) (46 pp.)

By Bill Whitlow, et al. — Urban Land Institute (2014)
Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

[RESPONDING TO CHANGING HOUSEHOLDS: Regulatory Challenges for Micro-units and Accessory Dwelling Units](#) (76 pp.)

By Vicki Been, Benjamin Gross, and John Infranca (2014)
New York University: Furman Center for Real Estate & Urban Policy
Library Call # D55 3 I47 2014

This White Paper fills two gaps in the discussion regarding compact units. First, we provide a detailed analysis of the regulatory and other challenges to developing both ADUs and micro-units, focusing on five cities: New York; Washington, DC; Austin; Denver; and Seattle. That analysis will be helpful not only to the specific jurisdictions we study, but also can serve as a model for those who want to catalogue regulations that might get in the way of the development of compact units in their own jurisdictions. Second, as more local governments permit or encourage compact units, researchers will need to evaluate how well the units built serve the goals proponents claim they will.

[SCALING UP SECONDARY UNIT PRODUCTION IN THE EAST BAY: Impacts and Policy Implications](#) (25 pp.)

By Jake Webmann, Alison Nemirow, and Karen Chapple (2012)
UC Berkeley: Institute of Urban and Regional Development (IURD)
Library Call # H44 1.1 S33 2012

This paper begins by analyzing how many secondary units of one particular type, detached backyard cottages, might be built in the East Bay, focusing on the Flatlands portions of Berkeley, El Cerrito, and Oakland. We then investigate the potential impacts of scaling up the strategy with regard to housing affordability, smart growth, alternative transportation, the economy, and city budgets. A final section details policy recommendations, focusing on regulatory reforms and other actions cities can take to encourage secondary unit construction, such as promoting carsharing programs, educating residents, and providing access to finance.

[SECONDARY UNITS AND URBAN INFILL: A literature Review \(12 pp.\)](#)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

[YES, BUT WILL THEY LET US BUILD? The Feasibility of Secondary Units in the East Bay \(17 pp.\)](#)

By Alison Nemirow and Karen Chapple (2012)
UC Berkeley: IURD
Library Call # H44.5 1.1 Y47 2012

This paper begins with a discussion of how to determine the development potential for secondary units, and then provides an overview of how many secondary units can be built in the East Bay of San Francisco Bay Area under current regulations. The next two sections examine key regulatory barriers in detail for the five cities in the study (Albany, Berkeley, El Cerrito, Oakland, and Richmond), looking at lot size, setbacks, parking requirements, and procedural barriers. A sensitivity analysis then determines how many units could be built were the regulations to be relaxed.

[YES IN MY BACKYARD: Mobilizing the Market for Secondary Units \(20 pp.\)](#)

By Karen Chapple, J. Wegmann, A. Nemirow, and C. Dentel-Post (2011)
UC Berkeley: Center for Community Innovation.
Library Call # B92 1.1 Y47 2011

This study examines two puzzles that must be solved in order to scale up a secondary unit strategy: first, how can city regulations best enable their construction? And second, what is the market for secondary units? Because parking is such an important issue, we also examine the potential for secondary unit residents to rely on alternative transportation modes, particular car share programs. The study looks at five adjacent cities in the East Bay of the San Francisco Bay Area (Figure 1) -- Oakland, Berkeley, Albany, El Cerrito, and Richmond -- focusing on the areas within ½ mile of five Bay Area Rapid Transit (BART) stations.

Journal Articles and Working Papers:

[BACKYARD HOMES LA \(17 pp.\)](#)

By Dana Cuff, Tim Higgins, and Per-Johan Dahl, Eds. (2010)
Regents of the University of California, Los Angeles.
City Lab Project Book.

[DEVELOPING PRIVATE ACCESSORY DWELLINGS \(6 pp.\)](#)

By William P. Macht. Urbanland online. (June 26, 2015)
Library Location: Urbanland 74 (3/4) March/April 2015, pp. 154-161.

GRANNY FLATS GAINING GROUND (2 pp.)

By Brian Barth. Planning Magazine: pp. 16-17. (April 2016)

Library Location: Serials

"HIDDEN" DENSITY: THE POTENTIAL OF SMALL-SCALE INFILL DEVELOPMENT (2 pp.)

By Karen Chapple (2011)

UC Berkeley: IURD Policy Brief.

Library Call # D44 1.2 H53 2011

California's implementation of SB 375, the Sustainable Communities and Climate Protection Act of 2008, is putting new pressure on communities to support infill development. As metropolitan planning organizations struggle to communicate the need for density, they should take note of strategies that make increasing density an attractive choice for neighborhoods and regions.

HIDDEN DENSITY IN SINGLE-FAMILY NEIGHBORHOODS: Backyard cottages as an equitable smart growth strategy (22 pp.)

By Jake Wegmann and Karen Chapple. Journal of Urbanism 7(3): pp. 307-329. (2014)

Abstract (not available in full text): Secondary units, or separate small dwellings embedded within single-family residential properties, constitute a frequently overlooked strategy for urban infill in high-cost metropolitan areas in the United States. This study, which is situated within California's San Francisco Bay Area, draws upon data collected from a homeowners' survey and a Rental Market Analysis to provide evidence that a scaled-up strategy emphasizing one type of secondary unit – the backyard cottage – could yield substantial infill growth with minimal public subsidy. In addition, it is found that this strategy compares favorably in terms of affordability with infill of the sort traditionally favored in the 'smart growth' literature, i.e. the construction of dense multifamily housing developments.

RETHINKING PRIVATE ACCESSORY DWELLINGS (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)

Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

ADUS AND LOS ANGELES' BROKEN PLANNING SYSTEM (4 pp.)

By CARLYLE W. Hall. The Planning Report. (April 26, 2016).

Land-use attorney Carlyle W. Hall comments on building permits for accessory dwelling units.

News:

HOW ONE COLORADO CITY INSTANTLY CREATED AFFORDABLE HOUSING

By Anthony Flint. The Atlantic-CityLab. (May 17, 2016).

In Durango, Colorado, zoning rules were changed to allow, for instance, non-family members as residents in already-existing accessory dwelling units.

NEW HAMPSHIRE WINS PROTECTIONS FOR ACCESSORY DWELLING UNITS (1 p.)

NLIHC (March 28, 2016)

Affordable housing advocates in New Hampshire celebrated a significant victory this month when Governor Maggie Hassan (D) signed Senate Bill 146, legislation that allows single-family homeowners to add an accessory

dwelling unit as a matter of right through a conditional use permit or by special exception as determined by their municipalities. The bill removes a significant regulatory barrier to increasing rental homes at no cost to taxpayers.

[NEW IN-LAW SUITE RULES BOOST AFFORDABLE HOUSING IN SAN FRANCISCO](#). (3 pp.)

By Rob Poole. Shareable. (June 10, 2014).

The San Francisco Board of Supervisors recently approved two significant pieces of legislation that support accessory dwelling units (ADUs), also known as "in-law" or secondary units, in the city...

[USING ACCESSORY DWELLING UNITS TO BOLSTER AFFORDABLE HOUSING](#) (3 pp.)

By Michael Ryan. Smart Growth America. (December 12, 2014).

Area Description	Zip Codes	Cannabis Arrests	% Low Income	% People of Color
------------------	-----------	---------------------	-----------------	----------------------